

Exhibit NN

- BORIS GRONENBERG -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

BONNY GAS TRANSPORT LIMITED, as)
owner of the LNG FINIMA (IMO)
No.7702401),)

CASE NO.
14-cv-9542 (VEC)

Plaintiff,)

-against-)

O.W. BUNKER GERMANY GMBH, NUSTAR)
TERMINALS MARINE SERVICES, N.V.,)
NUSTAR ENERGY SERVICES, INC.,)
ING BANK N.V.,)

Defendants.)

-----X

HAPAG-LLOYD AKTIENGESELLSCHAFT,)

CASE NO.
14-cv-9949 (VEC)

Plaintiff,)

-against-)

U.S. OIL TRADING LLC, O.W. BUNKER)
GERMANY GMBH, O.W. BUNKER & TRADING)
A/S, ING BANK N.V., CREDIT AGRICOLE)
S.A.,)

Defendants.)

-----X

HAPAG-LLOYD AKTIENGESELLSCHAFT,)

CASE NO.
14-cv-10027 (VEC)

Plaintiff,)

-against-)

O'ROURKE MARINE SERVICES, L.P.,)
L.L.P., O.W. BUNKER GERMANY GMBH,)
O.W. BUNKER USA, INC., ING BANK)
N.V.,)

Defendants.)

-----X

February 24, 2016

9:05 a.m.

DEPOSITION OF BORIS GRONENBERG

<p style="text-align: right;">Page 2</p> <p>1 - BORIS GRONENBERG - 2 UNITED STATES DISTRICT COURT) SOUTHERN DISTRICT OF NEW YORK) 3 -----x) U.S. OIL TRADING LLC,) 4) CASE NO. Plaintiff,) 15-cv-6718 (VEC) 5) -against-) 6) M/V VIENNA EXPRESS, her tackle,) 7 boilers, apparel, furniture,) engines, appurtenances, etc.,) 8 in rem: M/V SOFIA EXPRESS, her) tackle, boilers, apparel,) 9 furniture, engines, appurtenances,) etc., in rem,) 10) Defendants.) 11 -----x) HAPAG-LLOYD AKTIENGESELLSCHAFT, as) 12 Claimant to the M/V VIENNA EXPRESS,) CASE NO.) ^ 13 Counter-Claimant and) Third-Party Plaintiff,) 14) - against -) 15) U.S. OIL TRADING LLC,) 16) Counter-Defendant and) 17) Pages 18 - 19 O.W. BUNKER GERMANY GMBH, O.W.) have been 18 BUNKER TRADING A/S, ING BANK N.V.,) designated as and CREDIT AGRICOLE CORPORATE AND) Highly 19 INVESTMENT BANK, a division or arm) Confidential of CREDIT AGRICOLE S.A.,) 20) Third-Party Defendant. 21 -----x DATE: February 24, 2016 22 TIME: 9:05 a.m. 23 VIDEOCONFERENCE DEPOSITION OF BORIS GRONENBERG, held at the offices of McDermott Will 24 & Emery, 340 Madison Avenue, New York, New York, pursuant to Notice, before Hope Menaker, a Shorthand 25 Reporter and Notary Public of the State of New York.</p>	<p style="text-align: right;">Page 4</p> <p>1 - BORIS GRONENBERG - 2 APPEARANCES: (cont'd) 3 BLANK ROME LLP Attorneys for NuStar 4 717 Texas Avenue, Suite 1400 Houston, Texas 77002 5 BY: KEITH B. LETOURNEAU, ESQ. (Via videoconference) 6 7 ALSO PRESENT: Ms. A.J. Elterman, Interpreter 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 - BORIS GRONENBERG - 2 A P P E A R A N C E S 3 SEWARD & KISSEL LLP Attorneys for Defendant ING Bank N.V., 4 as Security Agent: One Battery Park Plaza 5 New York, New York 10004 BY: BRIAN P. MALONEY, ESQ. 6 LAURA E. MILLER, ESQ. 7 8 FREEHILL HOGAN & MAHAR LLP Attorneys for Hapag-Lloyd Aktiengesellschaft 80 Pine Street 9 New York, New York 10005 BY: MICHAEL FERNANDEZ, ESQ. (Via telephone) 10 MICHAEL DEHART, ESQ. 11 12 CLYDE & CO. US LLP Attorneys for U.S. Oil Trading LLC 405 Lexington Avenue 13 New York, New York 10174 BY: CASEY D. BURLAGE, ESQ. 14 15 McDERMOTT WILL & EMERY Attorneys for O.W. Bunker Germany GMBH 16 340 Madison Avenue New York, New York 10173 17 BY: DARREN AZMAN, ESQ. MICHAEL GALEN, ESQ. 18 ULRIKE WITT, ESQ. (via videoconference) -and- 19 HILL RIVKINS LLP 45 Broadway, Suite 1500 20 New York, New York 10006 BY: JUSTIN M. HEILIG, ESQ. (via videoconference) 21 22 SIMMS SHOWERS LLP Attorneys for O'Rourke Marine Services L.P. 23 201 International Circle, Suite 250 Hunt Valley, Maryland 21030 24 BY: MARIOS J. MONOPOLIS, ESQ. (via teleconference) 25</p>	<p style="text-align: right;">Page 5</p> <p>1 - BORIS GRONENBERG - 2 IT IS HEREBY STIPULATED AND AGREED by 3 and among the attorneys for the respective parties 4 hereto, that the sealing and filing of the within 5 deposition be waived. 6 7 IT IS FURTHER STIPULATED AND AGREED 8 that all objections, except as to the form, are 9 reserved to the time of trial. 10 11 IT IS FURTHER STIPULATED AND AGREED 12 that the within examination and any corrections 13 thereto may be signed before any Notary Public 14 with the same force and effect as if signed and 15 sworn to before this Court. 16 17 18 19 20 21 22 23 24 -o0o- 25</p>

2 (Pages 2 to 5)

<p style="text-align: right;">Page 42</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Justin, do you have that before the</p> <p>3 witness?</p> <p>4 MR. HEILIG: Yes.</p> <p>5 MR. BURLAGE: I'd like to mark this</p> <p>6 as what I believe is 21 is the next exhibit.</p> <p>7 (Whereupon, Exhibit 21 was marked at</p> <p>8 this time.)</p> <p>9 Q. Mr. Gronenberg, do you have this</p> <p>10 document? Do you see that as the sales order</p> <p>11 confirmation prepared by O.W. Bunker Germany to</p> <p>12 Hapag-Lloyd; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Take a minute to review the first</p> <p>15 page of this. Let me know when you've completed</p> <p>16 that review.</p> <p>17 A. Completed.</p> <p>18 Q. You see that it's dated Hamburg 9</p> <p>19 October 2014, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Do you see where it says sales order</p> <p>22 number 11928229.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Is that a sales order number</p>	<p style="text-align: right;">Page 44</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. I'm sorry, go ahead.</p> <p>3 A. This refers to the viscosity of the</p> <p>4 product.</p> <p>5 Q. Viscosity and then now that's a</p> <p>6 quality specification?</p> <p>7 A. Yes.</p> <p>8 Q. And is that something that</p> <p>9 Hapag-Lloyd had required for this delivery as far</p> <p>10 as you're aware?</p> <p>11 MR. HEILIG: Objection to form.</p> <p>12 MR. FERNANDEZ: Objection to form.</p> <p>13 MR. MALONEY: Objection.</p> <p>14 A. The initial inquiry or request was</p> <p>15 like this, yes. I'm not aware here. From this</p> <p>16 document must be.</p> <p>17 Q. Let's go down a little bit more than</p> <p>18 halfway down the page where it says "Remarks."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Now, do you see where it says, "All</p> <p>22 per ISO 8217 2005," and then capital letter E in</p> <p>23 parenthesis.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 - BORIS GRONENBERG -</p> <p>2 generated by O.W. Germany?</p> <p>3 A. Yes.</p> <p>4 Q. Would this be for the supply of fuel</p> <p>5 oil 700 CST to the VIENNA EXPRESS at the Port of</p> <p>6 Tacoma on October 16, 2014?</p> <p>7 A. Yes.</p> <p>8 Q. Do you see under the supplier heading</p> <p>9 where it says U.S. Oil?</p> <p>10 A. Yes.</p> <p>11 Q. The quantity there is 2700 metric</p> <p>12 tons; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Can you tell me, do you see where it</p> <p>15 says "Product/quality"?</p> <p>16 A. Yes.</p> <p>17 Q. Can you tell me what CST -- it looks</p> <p>18 like 3,5 percent or 3.5 percent. Can you tell me</p> <p>19 what that means to you?</p> <p>20 A. CST means -- CST refers to centi</p> <p>21 stokes.</p> <p>22 Q. Can you please spell that for us?</p> <p>23 A. C-E-N-T-I S-T-O-K-E-S. Yeah.</p> <p>24 Q. Now, can you tell us?</p> <p>25 A. This refers --</p>	<p style="text-align: right;">Page 45</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. What does that mean?</p> <p>3 A. Standard specification parameters for</p> <p>4 bunker fuel.</p> <p>5 Q. That's a worldwide standard?</p> <p>6 A. Yes.</p> <p>7 Q. Is that a quality standard?</p> <p>8 A. Quality standards are met under this</p> <p>9 headline of ISO standards.</p> <p>10 Q. Now, underneath of that it says,</p> <p>11 "HALO GTC 2007 shall apply."</p> <p>12 What does that mean to you?</p> <p>13 A. Hapag-Lloyd general terms and</p> <p>14 conditions version 2007 to apply for this sale.</p> <p>15 Q. Okay. So is it your testimony that</p> <p>16 Hapag-Lloyd's general terms and conditions from</p> <p>17 2007 would have applied to this sale to</p> <p>18 Hapag-Lloyd by O.W. Germany?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Can you please turn the page</p> <p>21 to what's the document bearing Bates number 381</p> <p>22 OWG 9949381.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you see where it says "Terms"?</p>

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<p style="text-align: right;">Page 46</p> <p>1 - BORIS GRONENBERG -</p> <p>2 A. Yes.</p> <p>3 Q. Please take a moment and read that</p> <p>4 paragraph and let me know when you're done.</p> <p>5 A. Yes, I'm done.</p> <p>6 Q. Do you see the first sentence where</p> <p>7 it says, "The sale and delivery of the marine</p> <p>8 fuels described above are subject to the O.W.</p> <p>9 Bunker" -- Mr. Gronenberg do you see it says --</p> <p>10 "The sale and delivery of the marine fuels</p> <p>11 described above are subject to the O.W. Bunker</p> <p>12 Group's terms and conditions of sales for marine</p> <p>13 bunkers."</p> <p>14 Do you see that?</p> <p>15 A. I see that.</p> <p>16 Q. Do you believe that this is accurate?</p> <p>17 Do the O.W. Bunker terms apply here as far as</p> <p>18 you're aware?</p> <p>19 MR. HEILIG: Objection to form.</p> <p>20 A. This is the standard format of our</p> <p>21 sales confirmation and under this sale, this sale</p> <p>22 is subject under remarks to Hapag-Lloyd general</p> <p>23 terms and conditions.</p> <p>24 Q. So is it your testimony, as far as</p> <p>25 you're aware, that the Hapag-Lloyd terms and</p>	<p style="text-align: right;">Page 48</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Would you agree that this is</p> <p>3 O.W. Germany's sales order confirmation for the</p> <p>4 delivery of 2700 metric tons of fuel oil to the</p> <p>5 SOFIA EXPRESS at the Port of Tacoma on October 29,</p> <p>6 2014?</p> <p>7 A. Yes.</p> <p>8 Q. Do you see where it says, "Supplier"</p> <p>9 U.S. Oil"?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Then under "Remarks," same</p> <p>12 question where it says HALO GTC 2007 shall apply.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Is it your understanding that</p> <p>16 Hapag-Lloyd's terms and conditions 2007 apply to</p> <p>17 this delivery of fuel?</p> <p>18 A. Yes.</p> <p>19 Q. Please look at the next page. I have</p> <p>20 the same question under the terms.</p> <p>21 A. Yes.</p> <p>22 Q. Is it your view that Hapag-Lloyd's</p> <p>23 terms and conditions apply to this transaction and</p> <p>24 O.W. Bunker's terms and conditions did not? Is</p> <p>25 that your understanding?</p>
<p style="text-align: right;">Page 47</p> <p>1 - BORIS GRONENBERG -</p> <p>2 conditions 2007 apply and O.W. Bunker's general</p> <p>3 terms and conditions for sale of marine bunkers do</p> <p>4 not apply to this transaction?</p> <p>5 A. This is my understanding.</p> <p>6 Q. Thank you.</p> <p>7 MR. BURLAGE: Justin, can you please</p> <p>8 put before the witness what has been produced</p> <p>9 by O.W. Germany at OWG 9949 000197.</p> <p>10 Please let me know when the witness</p> <p>11 has that before him.</p> <p>12 I'd like to mark this as Exhibit 22.</p> <p>13 (Whereupon, Exhibit 22 was marked for</p> <p>14 identification.)</p> <p>15 A. I have it in front of me.</p> <p>16 Q. Please take a moment to review this</p> <p>17 and let me know when you've completed that review.</p> <p>18 A. We can continue.</p> <p>19 Q. Do you recognize this as the sales</p> <p>20 order confirmation by O.W. Germany to Hapag-Lloyd</p> <p>21 dated 23 October 2014?</p> <p>22 A. Yes.</p> <p>23 Q. Do you see this vessel SOFIA EXPRESS,</p> <p>24 do you see where it says that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 49</p> <p>1 - BORIS GRONENBERG -</p> <p>2 A. Yes.</p> <p>3 Q. Thank you.</p> <p>4 MR. BURLAGE: Justin, I'd ask that</p> <p>5 you please put before the witness what's been</p> <p>6 marked or produced by O.W. Germany at 000387.</p> <p>7 Please mark this.</p> <p>8 (Whereupon, Exhibit 23 was marked at</p> <p>9 this time.)</p> <p>10 A. I have it in front of me.</p> <p>11 Q. If you just bear with me,</p> <p>12 Mr. Gronenberg. I'm going to go through the same</p> <p>13 line of questioning for this as well.</p> <p>14 Do you recognize this document as</p> <p>15 O.W. Bunker Germany's sales order confirmation to</p> <p>16 Hapag-Lloyd for the relevant delivery to the</p> <p>17 SEASPAN HAMBURG at the Port of Tacoma on October</p> <p>18 16, 2014?</p> <p>19 A. Yes.</p> <p>20 MR. HEILIG: Casey, are you marking</p> <p>21 this as the next exhibit?</p> <p>22 MR. BURLAGE: Yes, this will be</p> <p>23 marked as Exhibit 23.</p> <p>24 Q. Mr. Gronenberg, do you see the date</p> <p>25 there 10 October 2014?</p>

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 - BORIS GRONENBERG -</p> <p>2 A. Yes.</p> <p>3 Q. The quantity of 2900 metric tons of</p> <p>4 fuel oil?</p> <p>5 A. Yes.</p> <p>6 Q. And the supplier there is U.S. Oil,</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. You understand that this transaction</p> <p>10 was also subject to Hapag-Lloyd's terms and</p> <p>11 conditions and not O.W. Bunker's terms and</p> <p>12 conditions?</p> <p>13 A. Yes. On the remarks it always says</p> <p>14 Hapag-Lloyd's general terms and conditions to</p> <p>15 apply.</p> <p>16 Q. That's the general terms and</p> <p>17 conditions 2007, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Okay.</p> <p>20 MR. BURLAGE: Justin, please put</p> <p>21 place before the witness what's been produced</p> <p>22 at OWG 9949 000367 through 369.</p> <p>23 This will be marked as 24.</p> <p>24 (Whereupon, Exhibit 24 was marked at</p> <p>25 this time.)</p>	<p style="text-align: right;">Page 52</p> <p>1 - BORIS GRONENBERG -</p> <p>2 general terms and conditions did not apply?</p> <p>3 A. Yes.</p> <p>4 MR. BURLAGE: Okay. Justin, can you</p> <p>5 please place before the witness the PDF I</p> <p>6 sent you this morning which has been produced</p> <p>7 by Hapag-Lloyd and bears Bates numbers</p> <p>8 HPL-USOT 00039 through 41.</p> <p>9 (Whereupon, Exhibit 25 was marked at</p> <p>10 this time.)</p> <p>11 MR. BURLAGE: Please let me know when</p> <p>12 the witness has that before him.</p> <p>13 MR. HEILIG: We're good.</p> <p>14 MR. BURLAGE: Thank you.</p> <p>15 Q. Mr. Gronenberg, can you please take a</p> <p>16 look at these three pages and let me know if you</p> <p>17 have seen this document before.</p> <p>18 A. Yes, I've seen it.</p> <p>19 Q. Okay. Do you recall the first time</p> <p>20 that you have seen this document?</p> <p>21 A. No.</p> <p>22 Q. Okay. Let's go to the last page</p> <p>23 which has been marked HPL-USOT 00041. On the</p> <p>24 bottom right-hand of that page appears to be a</p> <p>25 stamp by O.W. Bunker Germany GmbH with an address</p>
<p style="text-align: right;">Page 51</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Mr. Gronenberg, do you have this</p> <p>3 document before you?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you recognize this as</p> <p>6 O.W. Germany's sales order confirmation to</p> <p>7 Hapag-Lloyd for the subject delivery to the SANTA</p> <p>8 ROBERTA at the port of Tacoma on October 9, 2014?</p> <p>9 A. Yes.</p> <p>10 Q. Do you see that it's dated 1 October</p> <p>11 2014?</p> <p>12 A. Yes.</p> <p>13 Q. Do you see there that the quantity is</p> <p>14 for 2700 metric tons of fuel oil to the vessel?</p> <p>15 A. Yes.</p> <p>16 Q. Do you see that the supplier listed</p> <p>17 here as U.S. Oil?</p> <p>18 A. Yes.</p> <p>19 Q. Under remarks, is it correct that it</p> <p>20 also lists Hapag-Lloyd's general terms and</p> <p>21 conditions 2007 shall apply?</p> <p>22 A. Correct.</p> <p>23 Q. And is it your view that on this</p> <p>24 transaction, Hapag-Lloyd general terms and</p> <p>25 conditions 2007 applied and O.W. Bunker Germany's</p>	<p style="text-align: right;">Page 53</p> <p>1 - BORIS GRONENBERG -</p> <p>2 in Hamburg and then there's a signature beneath</p> <p>3 that.</p> <p>4 Do you recognize that signature?</p> <p>5 A. Yes.</p> <p>6 Q. Whose signature is that?</p> <p>7 A. Mr. Lehsten.</p> <p>8 Q. Okay. What about the -- looks like</p> <p>9 there's a scribble or an initial on the bottom</p> <p>10 right of the first two pages of this document.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recognize that as</p> <p>14 Mr. Lehsten's initial?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. What is your understanding of</p> <p>17 what this document is?</p> <p>18 A. The general terms and conditions</p> <p>19 which Hapag-Lloyd requests for purchasing bunkers.</p> <p>20 Q. Would you agree that this is</p> <p>21 Hapag-Lloyd's general terms and conditions for</p> <p>22 what's been listed as 2007 which would apply to</p> <p>23 the four shipments we just discussed?</p> <p>24 MR. HEILIG: Objection to form.</p> <p>25 A. When is this dated 2007, yes. I</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 - BORIS GRONENBERG -</p> <p>2 don't know, is it?</p> <p>3 Q. Well, it's a little difficult to</p> <p>4 tell, but it looks like underneath that stamp</p> <p>5 there may be a date but I can't tell if that is</p> <p>6 correct, but -- would this be a document that</p> <p>7 would have been maintained in O.W. Germany's files</p> <p>8 in its regular course of business?</p> <p>9 A. Yes.</p> <p>10 Q. Okay and yesterday Mr. Lehsten</p> <p>11 testified that as part of a condition with doing</p> <p>12 business with Hapag, Hapag required O.W. Germany</p> <p>13 to sell basis Hapag's terms and conditions.</p> <p>14 Would you agree with that?</p> <p>15 MR. HEILIG: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. Is -- that would -- that would apply</p> <p>18 for these four shipments to your understanding?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know if O.W. Germany -- let me</p> <p>21 just back up.</p> <p>22 You said that you were department</p> <p>23 manager from 2009 at O.W. Germany in its trading</p> <p>24 department; is that correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 56</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Okay. Do you know if O.W. Bunker</p> <p>3 U.S.A. had the capability to supply fuel</p> <p>4 physically in Tacoma in 2014?</p> <p>5 MR. HEILIG: Objection to form.</p> <p>6 MR. FERNANDEZ: Objection to form.</p> <p>7 A. No.</p> <p>8 Q. No, you don't know; or no, they did</p> <p>9 not have the capability to do so as far as you are</p> <p>10 aware?</p> <p>11 A. As far as I'm aware, they did not</p> <p>12 have the capability.</p> <p>13 Q. Would that be the same with O.W.</p> <p>14 Germany?</p> <p>15 MR. HEILIG: Same objection.</p> <p>16 MR. FERNANDEZ: Same objection.</p> <p>17 A. Yes.</p> <p>18 MR. BURLAGE: Justin, can you please</p> <p>19 place before the witness what's been produced</p> <p>20 by O.W. Germany and it bears Bates numbers</p> <p>21 OWG 9949 - 00446 through 449.</p> <p>22 Please let me know when the witness</p> <p>23 has that before him.</p> <p>24 MR. HEILIG: He has it.</p> <p>25 Q. Mr. Gronenberg, can you please take a</p>
<p style="text-align: right;">Page 55</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Now, is the trading department the</p> <p>3 same as the reselling department or the resale</p> <p>4 department or are those different?</p> <p>5 A. No, it's the same just a different --</p> <p>6 MR. HEILIG: Finish your answer.</p> <p>7 A. Just a different wording or naming</p> <p>8 it.</p> <p>9 Q. But it's the same department then?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know if O.W. Germany</p> <p>12 physically supplied fuel on the west coast of the</p> <p>13 United States at any point in 2014?</p> <p>14 MR. HEILIG: Objection to form.</p> <p>15 MR. DEHART: Objection to form.</p> <p>16 MR. FERNANDEZ: Objection to form.</p> <p>17 Q. Are you aware that if O.W. Germany</p> <p>18 had the capability to supply fuel physically in</p> <p>19 the port of Tacoma, Washington in 2014.</p> <p>20 MR. BURLAGE: Let him answer.</p> <p>21 MR. HEILIG: Objection.</p> <p>22 MR. FERNANDEZ: Objection to form as</p> <p>23 well.</p> <p>24 Q. Did we have an answer?</p> <p>25 A. I said no.</p>	<p style="text-align: right;">Page 57</p> <p>1 - BORIS GRONENBERG -</p> <p>2 look at these couple of pages of documents and let</p> <p>3 me know when you've completed your review.</p> <p>4 A. Okay.</p> <p>5 Q. Would you agree that this is an</p> <p>6 e-mail from Kai Zu to Karl-Heinz Selmer dated</p> <p>7 October 1st, 2014, with the subject line Re: ENQ</p> <p>8 SANTA ROBERTA?</p> <p>9 MR. MALONEY: Do you have a copy of</p> <p>10 that?</p> <p>11 MR. DEHART: Yes.</p> <p>12 MR. HEILIG: Are we marking this as</p> <p>13 an exhibit?</p> <p>14 MR. BURLAGE: I don't know yet, hold</p> <p>15 on a second, please.</p> <p>16 Q. Do we have an answer to that last</p> <p>17 question, please?</p> <p>18 A. Yes.</p> <p>19 Q. What do you understand that -- let me</p> <p>20 back up quickly.</p> <p>21 Kai Zu, do you know who that is?</p> <p>22 A. My colleague in the U.S.</p> <p>23 Q. Is that a male or female?</p> <p>24 A. A male.</p> <p>25 Q. Does he work in the Houston office of</p>

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<p style="text-align: right;">Page 58</p> <p>1 - BORIS GRONENBERG -</p> <p>2 O.W. Bunker U.S.A., is that correct or did he?</p> <p>3 A. Correct.</p> <p>4 Q. Did he?</p> <p>5 A. Yes.</p> <p>6 Q. As you understand it, what is Mr. Zu</p> <p>7 saying to Mr. Selmer here where he says, "Good</p> <p>8 morning, Karl. Let's get it today."</p> <p>9 And then under Tacoma -- do you see</p> <p>10 where it says Tacoma?</p> <p>11 A. Yes.</p> <p>12 Q. Then he lists P66 Tesoro and U.S.</p> <p>13 Oil. Are P66 and Tesoro -- what is your</p> <p>14 understanding of those two companies?</p> <p>15 MR. HEILIG: Objection to form.</p> <p>16 A. Suppliers in Tacoma.</p> <p>17 Q. They're physical suppliers of fuel in</p> <p>18 Tacoma along with U.S. Oil; is that correct?</p> <p>19 MR. HEILIG: Objection to form.</p> <p>20 A. Correct.</p> <p>21 Q. Do you see where it says in bold,</p> <p>22 "U.S. Oil let's get the RMK for him"?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know what that means, "Let's</p> <p>25 get the RMK for him"?</p>	<p style="text-align: right;">Page 60</p> <p>1 - BORIS GRONENBERG -</p> <p>2 would it then convey those typicals to Hapag?</p> <p>3 A. Upon request, yes.</p> <p>4 Q. And how would that be done, by phone</p> <p>5 or by e-mail, do you know?</p> <p>6 A. Either way.</p> <p>7 Q. Either way. Okay. But you don't</p> <p>8 know in this case if that was done by e-mail or by</p> <p>9 phone, do you?</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. But did you understand that</p> <p>12 Hapag had instructed that fuel being supplied to</p> <p>13 this vessel would need certain specifications?</p> <p>14 MR. HEILIG: Objection, form.</p> <p>15 MR. FERNANDEZ: Objection to form.</p> <p>16 MR. MALONEY: Same objection.</p> <p>17 A. Not really.</p> <p>18 Q. Okay. In your experience, did Hapag</p> <p>19 require that the fuel delivered to its vessels</p> <p>20 have certain specifications?</p> <p>21 MR. HEILIG: Objection to form.</p> <p>22 MR. FERNANDEZ: Objection to form.</p> <p>23 A. Yes.</p> <p>24 Q. How do you know that?</p> <p>25 A. They would like to see or compare</p>
<p style="text-align: right;">Page 59</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Do you have any understanding of what</p> <p>3 that might mean?</p> <p>4 A. Yes. Yes, that Kai suggests to Karl</p> <p>5 to fix -- to fix an RMK with U.S. Oil.</p> <p>6 Q. And underneath that "549/MTD for</p> <p>7 RMK," in bold. Would that be the price that Kai</p> <p>8 Zu has conveyed to Karl that has been provided by</p> <p>9 U.S. Oil? Is that your understanding?</p> <p>10 MR. HEILIG: Objection to form.</p> <p>11 A. Yes.</p> <p>12 Q. Then under that it says, "Typicals."</p> <p>13 And then it lists, looks like some numbers for</p> <p>14 "API/bore, sulphur, aluminum, silicon, sodium,"</p> <p>15 et cetera.</p> <p>16 Are those -- is it your understanding</p> <p>17 that those are also typicals that Kai is giving to</p> <p>18 Karl that he had received from U.S. Oil?</p> <p>19 MR. HEILIG: Objection to form.</p> <p>20 MR. DEHART: Objection to form.</p> <p>21 MR. FERNANDEZ: Objection to form.</p> <p>22 MR. MALONEY: Objection.</p> <p>23 A. That's how I understand it, yes.</p> <p>24 Q. Now, would O.W. Germany, in this case</p> <p>25 Mr. Selmer, in its regular course of business,</p>	<p style="text-align: right;">Page 61</p> <p>1 - BORIS GRONENBERG -</p> <p>2 also the typical specifications of the product</p> <p>3 offered in order to determine which products they</p> <p>4 find most suitable for their vessels engines.</p> <p>5 Q. And so they would use the typicals to</p> <p>6 determine which fuel they wanted to select to</p> <p>7 have?</p> <p>8 MR. HEILIG: Objection.</p> <p>9 A. Not only typicals --</p> <p>10 MR. FERNANDEZ: Objection.</p> <p>11 Q. I'm sorry, continue.</p> <p>12 A. Not only the typicals. Of course</p> <p>13 also the price.</p> <p>14 Q. So your understanding is that</p> <p>15 Hapag-Lloyd would consider both the typicals</p> <p>16 provided by the supplier and the price to</p> <p>17 determine which set of fuel to purchase?</p> <p>18 MR. FERNANDEZ: Objection to form.</p> <p>19 MR. HEILIG: Objection to form.</p> <p>20 MR. HEILIG: Objection to form.</p> <p>21 A. Yes.</p> <p>22 Q. Thank you.</p> <p>23 MR. BURLAGE: I'll mark this as</p> <p>24 Exhibit 26, please.</p> <p>25 (Whereupon, Exhibit 26 was marked at</p>

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<p style="text-align: right;">Page 62</p> <p>1 - BORIS GRONENBERG -</p> <p>2 this time.)</p> <p>3 MR. HEILIG: Is that 25?</p> <p>4 MR. BURLAGE: 25 was the GTCs.</p> <p>5 MR. HEILIG: I'm sorry.</p> <p>6 MR. BURLAGE: This is 26.</p> <p>7 Justin, can you please put before the</p> <p>8 witness what's been produced by O.W. Germany</p> <p>9 and marked OWG 9949-000042. I will mark this</p> <p>10 as the next exhibit, 27, please.</p> <p>11 (Whereupon, Exhibit 27 was marked at</p> <p>12 this time.)</p> <p>13 MR. BURLAGE: Please let me know when</p> <p>14 the witness has that before him.</p> <p>15 THE WITNESS: I've got it.</p> <p>16 Q. Mr. Gronenberg, have you ever seen</p> <p>17 this document before?</p> <p>18 A. No.</p> <p>19 Q. Okay. Do you recognize this as an</p> <p>20 invoice produced by O.W. Bunker Germany?</p> <p>21 A. Yes.</p> <p>22 Q. Is this a document that would be</p> <p>23 produced in O.W. Germany's regular course of</p> <p>24 business?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 64</p> <p>1 - BORIS GRONENBERG -</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Due date 8 November 2014,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. So, is it fair to say would you agree</p> <p>7 that this is the invoice generated by O.W. Bunker</p> <p>8 Germany to Hapag-Lloyd for the supply of fuel oil</p> <p>9 approximately 2700 metric tons of fuel oil to the</p> <p>10 MV SANTA ROBERTA on October 9, 2014?</p> <p>11 A. Yes.</p> <p>12 Q. You see that O.W. Germany as invoiced</p> <p>13 an amount of USD 1,495,860.94; is that correct?</p> <p>14 A. Yes.</p> <p>15 MR. BURLAGE: Okay. Justin, please</p> <p>16 place before the witness a document, OWG</p> <p>17 9949-000130. And I'll mark this as I believe</p> <p>18 we're up to 28.</p> <p>19 (Whereupon, Exhibit 28 was marked at</p> <p>20 this time.)</p> <p>21 THE WITNESS: I got it.</p> <p>22 Q. Have you seen this document before,</p> <p>23 Mr. Gronenberg?</p> <p>24 A. No.</p> <p>25 Q. Do you recognize what this document</p>
<p style="text-align: right;">Page 63</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Is it the regular course of O.W.</p> <p>3 Germany's business to produce such documents?</p> <p>4 MR. HEILIG: Objection to form.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Please just take a moment to</p> <p>7 familiarize yourself with the document and just</p> <p>8 let me know when you're ready to discuss.</p> <p>9 A. I'm okay. Ready.</p> <p>10 Q. Do you see on the top right there</p> <p>11 that's the date of invoice 9 October 2014?</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you see underneath that invoice</p> <p>15 number it lists 119-29378.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is that an O.W. Bunker Germany</p> <p>19 invoice number?</p> <p>20 A. Correct.</p> <p>21 Q. Under that you see order number</p> <p>22 119-28179?</p> <p>23 A. Yes.</p> <p>24 Q. This would be for the supply listed 9</p> <p>25 October 2014, correct?</p>	<p style="text-align: right;">Page 65</p> <p>1 - BORIS GRONENBERG -</p> <p>2 is?</p> <p>3 A. Yes.</p> <p>4 Q. What is it?</p> <p>5 A. Information from Hapag-Lloyd to us</p> <p>6 about payment.</p> <p>7 Q. "To us," do you mean O.W. Germany,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. Is this a document that O.W. Germany</p> <p>11 would receive in its regular course of business</p> <p>12 with Hapag?</p> <p>13 A. Yes, we regularly receive those.</p> <p>14 Q. The word -- you have to forgive me</p> <p>15 because I don't speak German -- the word on the</p> <p>16 top of this box, the shaded box, "zahlungsavis,"</p> <p>17 can you please tell me what that means?</p> <p>18 A. Yes. Payment information.</p> <p>19 Q. Could you please read for the record</p> <p>20 the first few lines of text underneath of that in</p> <p>21 English?</p> <p>22 MR. HEILIG: Objection. How about we</p> <p>23 have the interpreter do that?</p> <p>24 MR. BURLAGE: That's fine.</p> <p>25 THE INTERPRETER: Ladies and</p>

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<p style="text-align: right;">Page 66</p> <p>1 - BORIS GRONENBERG -</p> <p>2 gentlemen, so per the transfer to abroad,</p> <p>3 meaning the transfer made abroad number</p> <p>4 59564776, we have settled the following</p> <p>5 items, subject to the correctness of your</p> <p>6 delivery or performance/payment and its</p> <p>7 accounting calculation.</p> <p>8 It has many meaning in this case or</p> <p>9 accounting for it or something.</p> <p>10 We have settled subject to</p> <p>11 correctness.</p> <p>12 MR. MALONEY: I'm just going to make</p> <p>13 a note for the record that the interpreter is</p> <p>14 here to translate the oral questions and</p> <p>15 answers.</p> <p>16 MR. BURLAGE: Fair. We can move on.</p> <p>17 THE INTERPRETER: It's a lot of terms</p> <p>18 depending --</p> <p>19 MR. BURLAGE: Understood. I'm going</p> <p>20 to turn back to the witness, Justin.</p> <p>21 Q. Mr. Gronenberg, what is your</p> <p>22 understanding of what this document means?</p> <p>23 A. Confirmation of payment to us.</p> <p>24 Q. Confirmation of payment for what?</p> <p>25 A. For the supplies listed here.</p>	<p style="text-align: right;">Page 68</p> <p>1 - BORIS GRONENBERG -</p> <p>2 we just reviewed.</p> <p>3 MR. HEILIG: Page 42.</p> <p>4 A. Yes.</p> <p>5 Q. Looking at these two documents</p> <p>6 together and the entry that we just reviewed for</p> <p>7 the SANTA ROBERTA on what's been marked as Exhibit</p> <p>8 28, would you agree with me that this Exhibit 28</p> <p>9 is a payment advice from Hapag-Lloyd telling</p> <p>10 O.W. Germany that it has paid O.W. Germany for the</p> <p>11 delivery of fuel to the SANTA ROBERTA which is</p> <p>12 reflected on this invoice for Exhibit 27?</p> <p>13 MR. HEILIG: Objection the to form.</p> <p>14 MR. FERNANDEZ: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. Sorry, what was the answer?</p> <p>17 A. Yes.</p> <p>18 Q. You agree that the invoice number on</p> <p>19 Exhibit 27 matches the invoice number on Exhibit</p> <p>20 28?</p> <p>21 A. Yes.</p> <p>22 Q. Now, do you know -- are you aware</p> <p>23 whether O.W. Germany has been paid for this</p> <p>24 delivery?</p> <p>25 A. No, I don't know if they received the</p>
<p style="text-align: right;">Page 67</p> <p>1 - BORIS GRONENBERG -</p> <p>2 Q. Okay. Let me turn your attention to</p> <p>3 the second, are these vessels listed under the</p> <p>4 column that says datum or datum, D-A-T-U-M?</p> <p>5 A. Yes, below the date are vessel names.</p> <p>6 Q. Now, let me direct your attention to</p> <p>7 I guess the second entry from the bottom. Do you</p> <p>8 see in the column, the second column from the left</p> <p>9 where it says 119-29378?</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Then moving over, do you see -- is</p> <p>13 that correct to state that that is October 9, 2014</p> <p>14 is the date?</p> <p>15 A. Correct.</p> <p>16 Q. And moving over where it says 1 -- is</p> <p>17 that correct that that would represent</p> <p>18 \$1,495,860.94?</p> <p>19 A. Correct.</p> <p>20 Q. That would be for the delivery of</p> <p>21 fuel to the SANTA ROBERTA on October 9, 2014,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. Now, can I just turn your</p> <p>25 attention to Exhibit 27 which was the invoice that</p>	<p style="text-align: right;">Page 69</p> <p>1 - BORIS GRONENBERG -</p> <p>2 fund.</p> <p>3 Q. Who would know that?</p> <p>4 A. Nowadays the insolvency</p> <p>5 administrator.</p> <p>6 Q. Now, in the regular course of</p> <p>7 O.W. Germany's business, would there be a record</p> <p>8 of such a payment made by Hapag to O.W. Germany?</p> <p>9 A. I don't understand your question.</p> <p>10 Q. Okay. Would there be an accounting</p> <p>11 of this -- receipt of this payment by Hapag in</p> <p>12 O.W. Germany's files?</p> <p>13 MR. HEILIG: Objection to form.</p> <p>14 A. Normally, yes.</p> <p>15 Q. Would that be electronic or in a</p> <p>16 paper file?</p> <p>17 A. Both.</p> <p>18 Q. Both, okay.</p> <p>19 Do you know if O.W. Germany has</p> <p>20 produced that record of payment in this action?</p> <p>21 A. No, I don't know.</p> <p>22 MR. HEILIG: Note my objection.</p> <p>23 MR. BURLAGE: To the extent it hasn't</p> <p>24 been produced we'll request that it be</p> <p>25 produced.</p>

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